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Message Text

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44
ACTION ARA-10

INFO OCT-01 ISO-00 AID-05 EB-07 INT-05 OMB-01 TRSE-00

CIAE-00 DODE-00 PM-04 H-02 INR-07 L-03 NSAE-00 NSC-05

PA-02 PRS-01 SP-02 SS-15 USIA-15 COME-00 CPR-01 A-01

IGA-02 OPR-02 /091 W
---------- 063112
R 111140Z NOV 76
FM AMEMBASSY BRASILIA
TO SECSTATE WASHDC 8657
INFO AMCONSUL RIO DE JANEIRO
AMCONSUL SAO PAULO

UNCLAS SECTION 1 OF 2 BRASILIA 9454

E.O. 11652: N/A
TAGS: EMIN EAID AFSP TGEN BR
SUBJECT: USGS AGREEMENT WITH BRAZIL

REF: (A) COURTNEY/FLEMING TELCONS, VARIOUS DATES, (B) BRASILIA 8813, (C) BRASILIA 8503, (D) FLEMING/GERSHENSON (ARA/EX) LETTER DATED OCTOBER 8, 1976, (E) STATE 141425

1. SUMMARY. AMBASSADOR HAS TRANSMITTED THE TEXT OF THE DRAFT USGS AGREEMENT TO THE MINISTER OF MINES AND ENERGY. A FONMIN OFFICIAL WAS UNSURE WHETHER THE AGREEMENT COULD BE BASED ON THE 1950 US-BRAZIL EXCHANGE OF NOTES ON TECHNICAL COOPERATION, OR WHETHER THE AGREEMENT WOULD HAVE TO BE SEPARATE AND SUBJECT TO RATIFICATION BY THE BRAZILIAN CONGRESS. EMBASSY HAS SEVERAL OBSERVATIONS ON ADMINISTRATIVE ARRANGEMENTS AND ON SCIENCE AND ENERGY SUBGROUP RELATIONSHIPS. ACTION REQUESTED. END SUMMARY.

2. BASED ON REF A AUTHORIZATION, THE AMBASSADOR ON NOV. 8 TRANSMITTED THE TEXT OF THE DRAFT USGS AGREEMENT, ALONG WITH AN INFORMAL PORTUGUESE TRANSLATION, TO THE MINISTER OF MINES AND ENERGY, SHIGEAKI UEKI. (COPIES OF TEXTS AND
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AMBASSADOR'S LETTER HAVE BEEN POUCHED TO FLEMING (USGS)

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006

AND ELTZ (ARA/ECA.) IN CONVERSATION WITH MARRANZINO
(USGS) AND EMBOFF, LEONARDO MANGEON, AN ASSISTANT TO UEKI,
PROMISED THAT THE GOB'S REVIEW OF THE DRAFT
WOULD BE COMPLETED IN ABOUT TWO MONTHS.
HE EXPLAINED THAT THE DRAFT WOULD BE SENT FOR
SUGGESTIONS AND CLEARANCE TO THE MINISTRY'S ASSOCIATED
COMPANIES, AS WELL AS TO THE FOREIGN AND FINANCE MINISTRIES.
TWO ORGANS OF THE FINANCE MINISTRY, BESIDES THE MINISTRY
ITSELF, MUST CLEAR THE AGREEMENT, THE CENTRAL BANK AND
CACEX, THE FOREIGN TRADE AUTHORITY OF THE BANCO DO BRASIL.
EMBOFF INFORMED MANGEON THAT THE CHIEF OF SUBIN (THE
INTERNATIONAL ECONOMIC AND TECHNICAL COOPERATION SECTION
OF THE PLANNING MINISTRY), ADERBAL COSTA, HAD TOLD US
THAT SUBIN'S CLEARANCE WAS UNNECESSARY BECAUSE THE AGREE-
MENT INVOLVED NO CONCESSIONALITY.

3. MARRANZINO AND EMBOFF ALSO CALLED ON COUNSELOR MAURO
COUTO, CHIEF OF THE FOREIGN MINISTRY'S TECHNICAL COOPERA-
TION SECTION. COUTO SAID HE WOULD STUDY THE DRAFT AND
GET IN TOUCH WITH THE EMBASSY NEXT WEEK. COUTO SAID HE
WAS UNSURE WHETHER THE AGREEMENT SHOULD BE CONCLUDED AS:
(A) AN EXCHANGE OF NOTES, BASED ON THE US-BRAZIL EXCHANGE
OF NOTES ON TECHNICAL COOPERATION, SIGNED DECEMBER 19, 1950
(TIAS 2239), OR (B) AS A SEPARATE AGREEMENT THAT WOULD
HAVE TO BE PRESENTED TO THE BRASILIAN CONGRESS FOR RATIFI-
CATION. COUTO SAID (A) WOULD BE THE EASIER AND, IN HIS
OPINION, THE PREFERABLE APPROACH. A SEPARATE SELF-STANDING
AGREEMENT, HOWEVER, MIGHT BE NECESSARY IF, AS HE THOUGHT,
THE 1950 EXCHANGE OF NOTES HAD NOT BEEN RATIFIED BY THE
BRAZILIAN CONGRESS, AND THUS HAD NOT ACQUIRED THE FORCE
OF LAW. HE EXPLAINED THAT CONGRESSIONAL APPROVAL WAS
REQUIRED FOR THE FINANCE MINISTRY TO GRANT EXEMPTIONS
FROM IMPORT DUTIES. EMBOFF REPLIED THAT THE 1950 EXCHANGE
OF NOTES SEEMS TO HAVE BEEN ADEQUATE THUS FAR FOR THE
OBTAINING OF DUTY EXEMPTIONS FOR AID PERSONNEL. COUTO
DID NOT RESPOND.

4. COUTO ALSO NOTED THAT SUBIN WOULD HAVE TO APPROVE
EACH "PROJECT IMPLEMENTATION PLAN" CARRIED OUT UNDER THE
AGREEMENT, EVEN THOUGH IT WOULD NOT HAVE TO APPROVE THE
UNCLASSIFIED

AGREEMENT.

5. ON THE QUESTION WHETHER USGS PERSONNEL IN BRAZIL WOULD
GET CONTINUING (OR ONLY ONE-TIME) DUTY EXEMPTIONS, COUTO
SAID HE WAS UNSURE HOW THIS WOULD BE RESOLVED. HE PRO-
MISED TO TRY FOR CONTINUING PRIVILEGES, SIMILAR TO THOSE
ENJOYED BY UN PERSONNEL IN BRAZIL. (COMMENT. SECTION 10
OF THE 1950 EXCHANGE OF NOTES WOULD APPEAR TO GIVE CONTINUING

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006

DUTY-FREE PRIVILEGES FOR US GOVERNMENT EMPLOYEES, A
STATUS WHICH, WE UNDERSTAND, ALL THE USGS PERSONNEL
WOULD HAVE, AS FULL-TIME OR WAE EMPLOYEES.)

UNCLASSIFIED

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PAGE 01 BRASIL 09454 02 OF 02 111435Z

44
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UNCLAS SECTION 2 OF 2 BRASILIA 9454

6. REGARDING REF D, THE EMBASSY HAS NO PROBLEM WITH
USGS REQUESTS FOR ADMINISTRATIVE SUPPORT TO BE INCLUDED
IN AN SAS AGREEMENT. EMBASSY HAS THREE OTHER OBSERVA-
TIONS ON THE LETTER'S CONTENT:

(A) WHETHER THE AGREEMENT IS INTERPRETED AS PROVIDING CON-
TINUING DUTY-FREE IMPORT PRIVILEGE WILL DETERMINE THE
ELIGIBILITY OF USGS PERSONNEL FOR COMMISSARY AND APO NON-
LETTER-MAIL PRIVILEGES.

(B) SINCE THE MINISTRY OF MINES AND ENERGY, AND NOT THE
EMBASSY, WILL ARRANGE FOR DUTY-FREE IMPORTATION OF EFFECTS
OF USGS PERSONNEL, THE EMBASSY CANNOT TAKE ON THE RESPON-
SIBITITY OF APPROVING AND VERIFYING THE TERMS OF THE
SALE OF PERSONAL PROPERTY. THE EMBASSY THEREFORE IS
UNCLEAR WHAT IS MEANT BY THE EMBASSY'S "ADVISING" USGS
PERSONNEL ON THE SALE OF PERSONAL PROPERTY.

(C) UPDATING QUARTERS ALLOWANCES IS A PROCESS THAT SHOULD

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006

BE STARTED WELL BEFORE USGS PERSONNEL ARE ASSIGNED TO
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7. MANGEON AND COUTO GAVE ASSURANCE THAT GOB AGENCIES
WOULD REVIEW THE DRAFT AGREEMENT ON A TIMELY BASIS. WE CHOSE,
THEREFORE, NOT TO RAISE THE POSSIBILITY OF BRINGING THE
AGREEMENT UNDER THE AUSPICES OF THE US-BRAZIL SUBGROUP
ON SCIENCE AND TECHNOLOGY (REF B). ONCE THE GOB HAS INDI-
CATED TO US THAT IT WILL RESPOND POSITIVELY TO THE DRAFT,
WE EXPECT TO BROACH TWO OTHER IDEAS: (1) THE AGREEMENT
COULD USEFULLY SERVE AS AN OPERATING INSTRUMENTALITY
FOR CERTAIN EARTH-SCIENCES-RELATED PROJECTS THAT THE
S AND T AND THE ENERGY B AND D SUBGROUPS MIGHT GENERATE,
BUT HIS WOULD BE DONE WITHOUT REQUIRING THAT USGS PROJECTS
BE DEPENDENT ON FORMAL APPROVAL BY THE SUBGROUPS;
AND (2) THE USGS MIGHT CONSIDER UTILIZING ITS OWN FUNDS
FOR PROJECTS IN CERTAIN FIELDS OF MUTUAL INTEREST, E.G.,
THOSE FIELDS SUGGESTED IN REF D, PARA 2. IT MIGHT BE
BEST TO DISCUSS THE FIRST IDEA INFORMALLY WITH THE MINISTRY
OF MINES AND ENERGY BEFORE RAISING IT WITH THE FOREIGN
MINISTRY. THE MINISTRY OF MINES AND ENERGY HAS LITTLE
DIRECT INVOLVEMENT WITH THE S AND T SUBGROUP. PARTICU-
LARLY FOR THIS REASON, THE MINISTRY MIGHT HAVE RESERVA-
TIONS ABOUT ANY UTILIZATION OF THE USGS AGREEMENT THAT
CONCEIVABLY COULD LIMIT THE MINISTRY'S FLEXIBILITY IN
USING THE AGREEMENTS AND OBTAINING USGS SERVICES.

8. ACTION REQUESTED. EMBASSY REQUESTS THAT NO ATTEMPT
BE MADE TO AUTHENTICATE THE PORTUGUESE TEXT OF THE DRAFT
AGREEMENT UNTIL AFTER THE GOB MAKES ITS INITIAL SUGGES-
TIONS FOR SUBSTANTIVE AND STYLISTIC CHANGES IN THE ENGLISH
AND PORTUGUESE TEXTS. EMBASSY WOULD APPRECIATE RECEIVING
THE FOLLOWING INFORMATION: (A) AID/GC VERIFICATION WHETHER
THE 1950 EXCHANGE OF NOTES HAS BEEN RATIFIED BY THE BRAZILIAN
CONGRESS; AND (B) AN ENUMERATION OF THE EXEMPTIONS NORMALLY
ENJOYED BY "GOVERNMENT PERSONNEL OF ANY OTHER NON-DIPLOMATIC
FOREIGN MISSION OR COMMISSION OPERATING UNDER SIMILAR
AGREEMENTS" (QUOTE FROM ARTICLE 1.5 OF THE ADMINISTRATIVE
ANNEX OF THE DRAFT AGREEMENT). EMBASSY REQUESTS APPROVAL
TO CHANGE, IN THE ENGLISH TEXT, THE TERMS "REQUESTING
PARTY" AND "RECIPIENT PARTY," TO "INITIATING PARTY" AND
"SUPPLYING PARTY," RESPECTIVELY. THIS CHANGE SOLVES
A PROBLEM OF TRANSLATING TERMS INTO PORTUGUSE WITHOUT
USING PORTUGUESE WORDS THAT COULD BE MISINTERPRETED.
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Margaret P. Grafeld
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